

Paul Hudson
Chairman

Julie Caruthers Parsley
Commissioner

Barry T. Smitherman
Commissioner

W. Lane Lanford
Executive Director



60785

Public Utility Commission of Texas

TO: Steven H. Bethke
Everybody's Phone Company
6666 Harwin, Ste. 605
Houston, TX. 77036

Infrastructure Reliability Division
Legal Division

RE: **Docket No. 34419 - Application of Everybody's Phone Company for a Service Provider Certificate of Operating Authority**

2007 JUL 25 11:11:08
REGISTRATION

NOTICE OF APPROVAL

This Notice approves the application of Everybody's Phone Company (the Applicant) filed on June 19, 2007, for a service provider certificate of operating authority (SPCOA) to provide resale-only telecommunications services within the geographic areas currently served by AT&T within the State of Texas. The docket was processed in accordance with applicable statutes and Commission rules. The Commission provided notice of the application to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. The Applicant and the Commission Staff (Staff) are the only parties to the proceeding. Staff recommends approval of the application. The application is approved.

Statutory Findings

1. The Applicant is a Texas corporation formed on September 2, 2003, with authority to transact business in the State of Texas.
2. The Applicant has no parent company or affiliated companies that are public utilities or that are providing telecommunications services.

3. The Applicant, together with its affiliates, has less than six percent of the total intrastate switched access minutes of use, as measured by the most recent 12-month period as set forth in PURA¹ § 54.153.
4. The name under which the Applicant has requested that the SPCOA be issued does not duplicate a name already being used by an existing SPCOA holder nor is it similar to a name currently being used so as to create confusion.
5. The Applicant has never applied for a permit, license, or certificate to provide telecommunications services in any state other than Texas.
6. The Applicant has never had any permit, license, or certificate denied or revoked by any state.
7. The Applicant has never provided telecommunications services in Texas or any other state.
8. The application complies with PURA§ 54.154(b).
9. The Applicant is entitled to approval of this application, having demonstrated the financial and technical qualifications to provide the proposed services, and the ability to provide the necessary quality of service to its customers, as required by PURA §§ 54.154(b) and 54.155(b).
10. The Applicant is not precluded by PURA §§ 54.201 or 54.152 from providing service under an SPCOA.

¹ The Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.017 (Vernon 2007) (PURA).

Complaint History

11. The Office of the Texas Attorney General reported no complaints registered against the Applicant.
12. A check of the Commission's Customer Protection Division complaint database revealed no complaints registered against the Applicant.
13. A check of the Commission's Enforcement & Investigations database revealed no outstanding notices of violation against the Applicant.
14. The Applicant committed in its responses to the Commission's Service Quality Questionnaire to meet the quality of service standards.

Ordering Paragraphs

1. The application of Everybody's Phone Company for a resale-only telecommunications service provider certificate of operating authority (SPCOA) is approved.² Everybody's Phone Company is granted SPCOA No. 60785 for the geographic area currently served by AT&T within the State of Texas.
2. The Applicant shall establish an access line account and submit quarterly reports in compliance with P.U.C. SUBST. R. 26.467 reporting requirements.
3. The Applicant shall be bound by requirements of P.U.C. SUBST. R. 26.111. Service under this certificate shall be provided exclusively in the name under which the certificate was granted by the Commission.

² Administrative approval of this uncontested application has no precedential value in a future proceeding.

4. An SPCOA certificate holder that has not provided service for a period of 12 consecutive months must provide a sworn affidavit to the Commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in the initial application. An SPCOA certificate holder that has not provided service within 48 months of being granted the certificate by the Commission, may have its certificate suspended or revoked, as defined by P.U.C. SUBST. R. 26.114, after due process, or undergo certification re-qualification. The Applicant shall comply with the above requirements.

5. The Applicant shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30th of each year *Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority*, Project No. 27357. If the SPCOA holder has any change during the year in the information requested in Section One of the annual report form, then the SPCOA holder shall file an updated form correcting the information in Section One within 30 days of the change.

6. The Applicant shall provide a copy of its application and/or the Commission's Notice of Approval, in accordance with the individual entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.

7. The Applicant's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include "9-1-1" emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2003) (the Code) or other applicable

law, and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the Commission on State Emergency Communications, local "9-1-1" entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all "9-1-1" emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the "9-1-1" entities to pursue, in good faith, the mutually agreed goal that the local "9-1-1" entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of "9-1-1" emergency service.

8. The Applicant shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).
9. The Applicant shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST R. 26.435(e)(4).

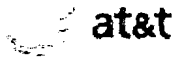
10. The Applicant has committed to and is bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying incumbent local exchange companies (ILECs) continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of the SPCOA application does not expand the scope of the underlying ILEC's obligation to its own customers.
11. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 25th day of July 2007.

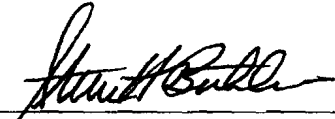
PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE



Everybody's Phone Company

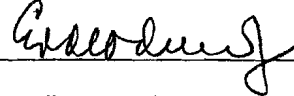
By: 

Name: STEVEN H BETHKE

Title: PRESIDENT

Date: 2-16-09

**Southwestern Bell Telephone Company d/b/a
AT&T Texas by AT&T Operations, Inc., its
authorized agent**

By: 

Name: Eddie A. Reed, Jr.

Title: Director-Interconnection Agreements

Date: 2-23-09